HON'BLE MR JUSTICE A. GOPAL REDDY

WRIT PETITION NO.133 OF 2000

DATE:03.04.2006

Between:

M/s. Lakshmi Oil Agencies,
B.P.C. wholesale kerosene dealer,
Rajahmundry, East Godavari District
Rep. by its licencee, A. Maheswara Rao.

..... PETITIONER

AND

The District Supply Officer,
East Godavari, Kakinada.

.....RESPONDENT

HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.133 OF 2000

ORDER:

Challenging the proceedings of the respondent in Ref.V5/CS/1213/97, dated 27.12.1999 suspending the licence granted in favour of the petitioner, who is a wholesale kerosene dealer, the present writ petition has been filed contending that unless the action is initiated under Clause 28(1) of the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (hereinafter called 'the Control Order') suspension of licence of the petitioner straightaway under Clause 28 (2) of the Control Order, does not arise. Therefore, the impugned order is arbitrary and illegal and the same is liable to be set aside.

Heard the learned counsel for the petitioner and learned Government Pleader for Civil Supplies. Perused the material on record.

This Court in **Narasimha Oil Supplies, IOC v. Joint Collector, West Godavari**[1] observed as under:

> "Sub-clause (1) of Clause 28 empowers the authority to cancel or suspend the licence or registration certificate of a dealer of petroleum products, if he contravenes the provisions of the Control Order. No order of cancellation/suspension can however, be passed unless licensee or the holder of registration certificate has been given a reasonable opportunity of representing his case in writing and also giving a personal hearing to the licensee or dealer. Clause 28(2) empowers the authority to pass an order of interim suspension if (i) there is action pending under sub-clause (1) and (ii) if for reasons to be recorded in writing the authority decides that licence or certificate of registration is required to be cancelled/suspended.

Further, it was observed:

> "In a given case issue of a show cause notice as per proviso to Clause 28(1) could be sufficient to show that action was

> initiated and pending under Clause 28(1). The same is not done and not even a show cause notice was issued. Straightaway, the impugned order was passed ignoring the mandatory requirement of Clause 28(2). Further, the authority is required to record reasons in writing. A reading of the impugned orders would show that no reasons are recorded by the Joint Collector except saying that in the circumstances reported by the Deputy Superintendent of Police/Inspector of Police…., the impugned orders of suspension is being passed."

Coming to the case on hand, it is clear that the impugned order has been passed by invoking Clause 28 (2) of the Control Order and there is no indication of initiation of the proceedings under Clause 28(1) of the Control Order. In view of the same and in view of the principles laid down in **Narasimha Oil Supplies, IOC**'s case, the impugned order cannot be sustainable and the same is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order is set aside. At this stage, the learned Government Pleader submits that in view of the interim orders granted by this Court in W.P.M.P.No.145 of 2000, dated 4.1.2000, the respondent-authorities could not initiate the proceedings under Clause 28(1) of the Control Order. Hence, it is made clear that setting aside of the impugned order of suspension does not preclude the respondent-authorities from initiating the proceedings under Clause 28(1) of the Control Order and they are at liberty to proceed with the matter in accordance with law. No costs.

A. GOPAL REDDY, J

3rd APRIL, 2006.
Tsr

[1] 2003(1) ALD (Crl.) 430 (A.P.)